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Held at Headquarters, New York, on Wednesday, 17 March 2004, at 10 a.m.

Chairman: Mr. Kmoníček ..... (Czech Republic)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Kuznetsov

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Agenda item 134: Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations (*continued*)

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04-27331 (E)

The meeting was called to order at 10.10 a.m.

Agenda item 134: Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations (*continued*) (A/58/723 and A/58/732)

1. **Ms. Pollard** (Director of the Peacekeeping Financing Division), introducing the note by the Secretary-General on the implementation of paragraph 3 of General Assembly resolution 57/323 (A/58/723), said that, by that resolution, the General Assembly had requested the Secretary-General to return 50 per cent of the net cash available for credit to Member States as at 30 June 2002, in the amount of $84,446,000, by 30 June 2003, and had decided to postpone the return of the remaining 50 per cent until 31 March 2004 in respect of the fund balances of the closed missions listed in paragraph 1 of the note. The net cash available for credit to Member States as at 29 February 2004 amounted to $57,399,000.

2. Loans totalling $152 million had been made between 30 June 2003 and 29 February 2004 in order to sustain the operations of the United Nations Interim Administration Mission in Kosovo (UNMIK), the United Nations Mission for the Referendum in Western Sahara (MINURSO), the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Those loans had resulted from significant cash shortages owing to significant non-payment of assessments, which threatened the viability of those operations. The cash available in the Peacekeeping Reserve Fund as at 29 February 2004 amounted to $74.0 million. That, together with the $57.4 million currently available in the special accounts of closed missions, totalled $131.4 million.

3. The Security Council had established the United Nations Operation in Côte d'Ivoire (UNOCI) by its resolution 1528 (2004) and had declared its readiness to establish a follow-on stabilization force in Haiti (resolution 1529 (2004)). The extension of the United Nations Mission of Support in East Timor (UNMISET) for a further 12-month period and potential operations in Burundi and the Sudan would give rise to immediate cash requirements before the General Assembly was in a position to review and approve the related budgets and the amounts to be assessed. In addition, there was a significant time lag between the approval of assessments and the collection of contributions.

4. The cash related to closed missions ($57.4 million) and the amount available in the Peacekeeping Reserve Fund ($74.0 million) would therefore be required to meet the immediate cash requirements of UNOCI and the potential new missions. Under the circumstances, prudence dictated that the return to Member States of the amount of $84,446,000, representing 50 per cent of the net cash available for credit to Member States as at 30 June 2002, should be postponed and the issue revisited by the General Assembly at the main part of its fifty-ninth session.

5. **Mr. Kuznetsov** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee contained in document A/58/732, said that the Advisory Committee had conducted a thorough analysis of the issue of the return of cash available for credit to Member States from closed missions and of the level of the Peacekeeping Reserve Fund, taking into account the projected cash requirements for a number of prospective peacekeeping missions.

6. The Organization faced an unusual situation where potentially large and expensive peacekeeping missions might come one after another. Thus, cash available in closed missions would be required to supplement the Peacekeeping Reserve Fund. Loans totalling $152 million had been made to address significant cash shortages in UNMIK, MINURSO, ICTY and ICTR, due to non-payment of assessments.

7. The postponement of the return of available cash to Member States was a policy decision to be made by the General Assembly. However, cash from closed missions was the only source for temporary cross-borrowing when tribunals or active missions ran out of cash. Other funding options, such as the Peacekeeping Reserve Fund, were restricted in use. Moreover, the Peacekeeping Reserve Fund would be required to meet the immediate cash needs of UNOCI and UNMISET as well as of other potential missions, and the strategic deployment stocks (SDS) did not have the capacity to meet all eventualities. An increase in the level of the Peacekeeping Reserve Fund would not address the short-term liquidity problem, which could be solved only by an improved pattern of payment of assessed contributions.

8. The Advisory Committee recommended acceptance of the proposals of the Secretary-General to maintain the authorized level of the Fund at $150 million and that the balance in excess of the authorized level should be applied to meet the financing of the support account for peacekeeping operations for the period from 1 July 2004 to 30 June 2005.

9. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, the acceding countries (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia), the associated countries (Bulgaria, Romania and Turkey), the stabilization and association process countries (Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Serbia and Montenegro) and, in addition, Iceland, Liechtenstein and Norway, said that the postponement of the return to Member States of the amount of $84.4 million from closed peacekeeping missions in order to meet the immediate cash needs of new and expected missions would not provide a solution to the dire ongoing financial problems of the United Nations but merely a temporary "band-aid". Currently, those Member States that paid their assessed contributions in full and on time were subsidizing those that did not; retaining the cash from closed missions was another form of subsidy, which would be unacceptable to the European Union.

10. The Organization was facing a cash shortfall because of the late payment or non-payment of assessments by many Member States. In that connection, she urged the United States to review and adjust its payment schedule so as to ensure the financial viability of the United Nations throughout the year. Lastly, she requested the Secretary-General to issue a clear statement on the causes of the Organization's cash flow problems.

11. **Mr. Dutton** (Australia), speaking also on behalf of Canada and New Zealand, said that the United Nations was experiencing an extraordinary acceleration in peacekeeping activity, creating significant cash requirements which might exceed the level of the Peacekeeping Reserve Fund. It was imperative for the United Nations to have the necessary cash at its disposal to launch those missions quickly and effectively. At the same time, the cash situation was much worse than it should be due to the failure of many Member States to pay their assessments, despite their legal obligation to do so.

12. The Secretary-General had presented a possible solution by retaining $84 million in closed mission accounts. If the request were necessary only because of the unique expansion in peacekeeping activity, the answer would be simpler, but it also arose from the fact that the United Nations was struggling because of non-payment by Member States. That raised a question of principle, as Member States were being asked to forego repayment of money owed to them in order to ameliorate a situation caused by others not paying their assessments. That situation was inequitable, since Member States that had met their own financial obligations should not have to cover those of others.

13. The delegations on whose behalf he spoke would like to receive a full summary of the current cash situation and a list of outstanding contributions broken down by account and Member State. It would also be helpful to have a paper showing which States were owed the money the Secretariat wished to retain and identifying those that had arrears in other accounts. Alternative and more equitable solutions, such as retaining the money of only those States that had arrears in other accounts or offsetting credits for such States against their arrears should be explored. It would also be useful to know whether States with substantial arrears could solve the problem by paying them quickly and whether recent or prospective payments changed the overall situation. Lastly, the possibility should be discussed of allowing the Secretariat to cross-borrow from active peacekeeping missions for the purpose of starting up new missions.

14. Neither the Charter nor any of the resolutions of the General Assembly allowed States to choose which accounts they wished to pay or when. All Member States must make immediate efforts to clear their arrears, as the only means by which the financial stability of the United Nations could be assured.

15. **Mr. Wins** (Uruguay) said that his Government attached the highest priority to peacekeeping operations and, despite its own difficult financial situation, had made every effort to honour its commitments. Its main contribution to peacekeeping was in the form of human resources. Over 1,800 of its troops were deployed on various missions, especially in Africa.

16. The Committee must deal with the financial impact of the recently approved peacekeeping operations and potential new ones in the best possible

way. The expected funding needs described in paragraphs 6, 7 and 9 of the Advisory Committee's report (A/58/732) made it clear that the Peacekeeping Reserve Fund and the special accounts of the closed missions would be insufficient. The practice of cross-borrowing had been strongly criticized and it was an alternative that his delegation did not support. It did support, however, the proposal of the Secretary-General. The main troop-contributing countries were developing countries with limited resources and in some cases a delay in reimbursement would be a sacrifice. The situation was a complex one, but the Secretary-General's proposal was the most pragmatic solution.

17. **Ms. Lock** (South Africa) said that, in accordance with the Charter of the United Nations, the expenses of the Organization should be borne by the Members. Accordingly, all Member States should pay their assessed contributions in full, on time and without conditions. However, sympathetic consideration should be given to those States that were unable to fulfil their obligations because of genuine economic difficulties.

18. When the Committee had considered the return of cash from closed peacekeeping missions in May 2003, her delegation had advocated a cautious approach, although it had agreed that it was only fair to reimburse those Member States that had met all their commitments to the missions concerned. Subsequently, loans totalling $152 million had been made from the fund balances of closed missions in order to sustain UNMIK, MINURSO and the two International Tribunals. While her delegation remained concerned about the practice of cross-borrowing, it recognized that late payment and non-payment of assessed contributions had left the Secretary-General with little alternative.

19. Given that cash from closed missions was the only source that could be used for temporary cross-borrowing and that the requirements of UNOCI and potential missions in Haiti, Burundi, Sudan and Cyprus might exceed the cash available in the Peacekeeping Reserve Fund, the United Nations was clearly not in a position to return even a portion of the remaining $84.4 million to Member States. Her delegation therefore supported the Secretary-General's proposal to retain that sum for the time being. Its position was based on its conviction that peacekeeping was a core task of the United Nations that made a valuable contribution to the maintenance of international peace and security and its belief that Member States had a collective responsibility to ensure the Organization's financial stability.

20. Her delegation noted with concern that payments to Member States for troop costs and contingent-owned equipment might have to be postponed in order to conserve cash until assessed contributions came in. It trusted that every effort would be made to avoid such a situation, since delays in reimbursement would place an unacceptable burden on developing countries.

21. Lastly, she assured the Committee of South Africa's continued commitment to meet its financial obligations to the United Nations in full, on time and without conditions.

22. **Mr. Wittmann** (United States of America) said that his delegation had expressed its concern about the financial health of the United Nations at the previous session and had stated that it was very reluctant to distribute the funds from closed peacekeeping operations, since that would eliminate a vital source of cross-borrowing. At the same time, it did not favour the concept of cross-borrowing, which provided an artificial cushion as opposed to the necessary fiscal discipline. Nevertheless, the Secretariat had made a case for retention of the funds, given the unexpected and extraordinary expenses of three new peacekeeping operations. His delegation was inclined to support the request of the Secretary-General that the distribution should be postponed and the issue revisited by the General Assembly at its fifty-ninth session.

23. **Mr. Kendall** (Argentina) said that his delegation associated itself with the statements made by the representatives of Uruguay, South Africa and the United States of America.

24. **Mr. Elnaggar** (Egypt) said that his delegation agreed in general with the statements made by the representatives of Uruguay, South Africa and the United States of America. While measures by the Secretariat were no substitute for the commitment of Member States to meet their obligations in full and on time, the trend towards the establishment of new peacekeeping operations made the request by the Secretary-General understandable.

25. **Ms. Udo** (Nigeria) recalled that, when the General Assembly had adopted resolution 57/323, outstanding assessed contributions to peacekeeping missions had totalled $1.4 billion. At the same time,

Nigeria, along with other troop contributors, had been owed considerable sums of money. Thus, the decision to postpone the return of a portion of the net cash available for credit to Member States from closed missions had not been an easy one. Her delegation had acted out of its commitment to the Organization and its desire to provide the Secretary-General with the resources necessary to execute the mandates given him by Member States.

26. Once again, Member States faced a difficult choice. The Security Council had approved new mandates and a number of potential missions were on the horizon. All of those would give rise to immediate cash requirements, which could not be met solely from the Peacekeeping Reserve Fund. The only additional source of funding was the cash remaining in the accounts of closed missions.

27. The adoption of the course of action proposed in document A/58/723 would create considerable hardship for Nigeria. However, her delegation concurred with the Secretary-General that prudence dictated that the return to Member States of the amount of $84.4 million should be postponed, and it shared the views expressed by the representatives of Uruguay, South Africa, the United States and Egypt in that regard.

28. It believed in the full, timely and unconditional payment by all Member States of assessed contributions based on their capacity to pay. Nigeria, for its part, was endeavouring to fulfil its financial obligations to the United Nations and continued to be a major troop contributor.

29. **Mr. Mazumdar** (India) said that his delegation agreed that the situation was unique. While new peacekeeping operations had been approved, both the Peacekeeping Reserve Fund and cash balances were low and strategic deployment stocks had been depleted. His delegation was also concerned that $152 million in loans had to be made to current operations. It understood the legitimate concerns of those who felt that they should not be penalized for non-payment of assessments by some Member States. It also agreed that the Secretary-General's proposal was only a temporary solution to prevent peacekeeping operations from becoming paralysed. His delegation would not accept any proposal to change the long-standing practice of not cross-borrowing from active peacekeeping missions. In view of the situation, however, there was no alternative but to support the Secretary-General's proposal.

30. **Mr. Bouheddou** (Algeria) said that cross-borrowing was not an ideal solution, but was necessary in certain situations. His delegation therefore supported the recommendations contained in the report of the Advisory Committee.

31. **Mr. Rahman** (Bangladesh) said that, while his delegation remained concerned about the practice of cross-borrowing, it recognized that the financial situation of the United Nations demanded that cash from closed peacekeeping missions should be retained in order to meet unexpected costs in other missions. It wished to urge all Member States to pay their assessed contributions in full, on time and without conditions.

32. **Mr. Rojanapaibulya** (Thailand) said that he shared the views of previous speakers who had expressed support for the Secretary-General's proposal. He called on all Member States to fulfil their financial obligations to the United Nations, noting that, since peacekeeping was one of the Organization's core tasks, it was imperative for Members to support it.

33. **Mr. Chaudhry** (Pakistan) said that his delegation endorsed the statements made by the representatives of South Africa, Argentina and the United States. It fully supported the Secretary-General's proposal, as outlined in document A/58/723. Lastly, it wished to urge all Member States to fulfil their financial obligations to the United Nations in a timely fashion.

34. **Mr. Kozaki** (Japan) said that his delegation shared the views of previous speakers who had expressed support for the Secretary-General's proposal. It also concurred with the views of the Advisory Committee.

35. **Ms. Afifi** (Morocco) said that her delegation, too, supported the Secretary-General's proposal and the recommendations of the Advisory Committee.

36. **Ms. Pollard** (Director of the Peacekeeping Financing Division) said that there were two factors behind the Organization's cash flow problems. The first related to the new missions that were envisaged. There would be a significant time lag between the approval of assessments for those missions and the collection of contributions, while their immediate requirements would exceed the cash available in the Peacekeeping Reserve Fund. The proposal outlined in document A/58/723 was intended to address that problem. The

second factor was the non-payment of assessments, which had led to significant cash shortages in UNMIK, MINURSO and the two International Tribunals. Loans had been made to sustain those operations, but the only long-term solution was the payment of assessed contributions in full and on time.

37. Concerning the delay between the approval of assessments and the collection of contributions, she noted by way of example that, while the United Nations Mission in Liberia had been authorized in October 2003, assessments had not been issued until January 2004 and contributions were only just starting to come in. In the meantime, the Secretariat had had to borrow $76 million from the Peacekeeping Reserve Fund to keep the Mission operationally solvent.

38. Responding to the proposal that closed mission cash should be withheld only from Member States with arrears in other accounts, she said that the Secretariat could not take such a step unilaterally and would need the consent of the States concerned. As to the suggestion that cash in active peacekeeping missions could be used to support new missions, that practice was expressly prohibited by legislation and could adversely affect the operational requirements of the missions concerned, as well as payments to troop-contributing countries.

39. In that connection, she noted that, in 2003, the Secretariat had set quarterly targets for payments for troop costs and contingent-owned equipment. Those targets had been met in most missions, and the first quarterly payments for 2004 were expected to be made in late March or early April. It might, however, prove necessary to postpone those payments in the case of UNMISET, since, if the Security Council decided to extend the Mission beyond the planned liquidation date of 20 May 2004, interim funding would be required until a revised budget could be submitted in the autumn.

40. Concerning the request for a summary of the current cash situation, she said that the Under-Secretary-General for Management would make a statement at the second part of the resumed fifty-eighth session of the General Assembly in May 2004 covering all aspects of the Organization's operations, including cash flow. The Contributions Service was compiling a list of outstanding contributions, which should be available later in the morning.

The meeting rose at 11 a.m.

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Summary record of the 35th meeting
Held at Headquarters, New York, on Friday, 19 March 2004, at 10 a.m.

Chairman: Mr. Kmoníček ..... (Czech Republic)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Kuznetsov

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Agenda item 127: Human resources management (*continued*)

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04-27684 (E)

0427684

The meeting was called to order at 10.15 a.m.

Agenda item 127: Human resources management (*continued*) (A/58/283, A/58/666; A/C.5/58/L.13)

1. **Ms. Haji-Ahmed** (Office of Human Resources Management) said that the written responses of the Office of Human Resources Management to the questions raised by the members of the Committee at its 32nd meeting had been circulated. They were divided into two parts. Part One focused on questions on the report of the Secretary-General on the composition of the Secretariat (A/58/666) and the report of the Secretary-General on the list of staff of the United Nations Secretariat (A/C.5/58/L.13). The Secretary-General took the view that equitable geographic representation of Member States and gender parity were important, and he would work to improve both.

2. On the basis of its analysis, the Office of Human Resources Management had concluded that the problem of underrepresented and unrepresented Member States had become less acute, including in the case of African Member States, whose representation had increased from 189 to 229, or by 21.2 per cent, between 1999 and 2003. Nationality details for senior-level staff subject to geographical distribution were in table A.9 of the annex to the report, which contained comprehensive statistical tables.

3. The number of women staff at decision-making levels who were nationals of African Member States had increased from 27 in 1999 to 42 in 2003. Table 1 in Part One of the responses also gave information, broken down by nationality, on the number of women recruited or promoted to decision-making positions in the Secretariat.

4. Part Two of the responses provided clarification and information on matters raised in connection with the Secretary-General's bulletin on family status for purposes of United Nations entitlements (ST/SGB/2004/4).

5. There had been no recent changes to the Staff Regulations and Rules dealing with family status of staff members and their entitlements in that regard, and the Staff Regulations and Rules contained no definition of "marriage" or "spouse".

6. It had been the consistent practice to determine the family status of individual staff members by reference to the law of the country of their nationality, thereby ensuring that the Organization fully respected the cultural diversity of all its Member States, maintained a strictly neutral position and accepted the Member States' determination regarding its nationals in the culturally sensitive matter of who was a "spouse".

7. The basis for issuing the bulletin was that Article 97 of the Charter made the Secretary-General chief administrative officer of the Organization, with the authority to interpret the Staff Regulations either directly or through a designated official. The position of the bulletin was neutral, implying no general recognition of the validity of same-sex marriages, or heterosexual or other domestic partnerships, but reflecting changes in the laws of Member States when administering the entitlements of staff members who were nationals of those Member States.

8. Budgetary requirements to fund staff entitlements were incorporated routinely in the overall common staff costs component of established posts and temporary assistance provisions of the programme budget. It was not thought that the bulletin would produce any discernible financial impact on common staff costs.

9. **Mr. Elnaggar** (Egypt) said that he recognized that the Staff Regulations and Rules did not define "marriage" or "spouse" or contain internal family law provisions, but wished to know how the bulletin affected that situation, since to state that recognition under the law of the country of nationality of a staff member would confer entitlement to benefits was tantamount to a definition.

10. According to the responses of the Office of Human Resources Management, the practice of determining the family status of staff members by reference to the legislation of their country of origin had been explained in a memorandum of the Office of Legal Affairs dating back to 1981. He therefore wondered why the provisions in the bulletin had been introduced not in 1981, but in 2004.

11. His delegation understood that it was the prerogative of the Secretary-General to interpret the Staff Regulations and Rules, but wondered why the bulletin had been issued if the Staff Regulations and Rules had not been changed. He also wished to know the legal interpretation of the statement made by the Secretary-General on 16 March 2004 that the matter in

question would be considered by the General Assembly, and whether that statement meant that he was awaiting a directive from the Assembly.

12. In its resolution 57/286, recalling its resolution 55/224, the General Assembly had requested the Board of the United Nations Joint Staff Pension Fund to review survivors' pension entitlements because it had been unable to reach a consensus on that issue. That showed that the General Assembly had already expressed a view on one aspect of the bulletin and called into question its legality.

13. Finally, according to the responses of the Office of Human Resources Management, the bulletin would have "no discernible financial impact". Since English was not his mother tongue, that statement was unclear and he would like it explained.

14. **Ms. Wahab** (Indonesia) said that although the responses of the Office of Human Resources Management maintained that the Staff Regulations and Rules contained no definition of "marriage" or "spouse", the Staff Regulations and Rules referred to "husband" and "wife", indicating that they did not accommodate same-sex marriage and that the bulletin was inconsistent with their provisions.

15. She wished to know the history of the 1981 memorandum of the Office of Legal Affairs. The bulletin covered United Nations personnel, so she wondered whether the national law of a staff member's country of nationality could apply to that staff member without the agreement of all Member States.

16. **Mr. Farid** (Saudi Arabia), referring to the response regarding the compatibility of the bulletin with the existing Staff Regulations and Rules and its legal justification, said that he would like two issues to be clarified. The first was the incompatibility between the bulletin and the Staff Regulations and Rules mentioned by the representative of Indonesia. The second was the compatibility between the current case and the condition, mentioned in the 1981 memorandum of the Office of Legal Affairs, that common-law marriages could be recognized only if recognized as legally effective. He questioned the assertion that the bulletin was neutral and failed to imply recognition in principle of same-sex marriages Any action carrying budget implications must obtain the consensus of the Fifth Committee as the intergovernmental body with responsibility for financial matters. The bulletin certainly carried budget imolications. He wished to know, lastly, whether the Staff Union had been consulted on the matter.

17. **Mr. Zacklin** (Officer-in-Charge of the Office of Legal Affairs) said that from the point of view of the administration of the Organization by the Secretary-General, in his capacity as its chief administrative officer, there was one core issue to consider. Since the founding of the Organization, interpretation of regulations and rules on family status and determination of family status had been made with reference to the law of nationality of individual staff members. That principle, reflected in the 1981 legal opinion, had been applied by the current Secretary-General and all his predecessors for good reason. The Organization, its staff and the Staff Rules would be impossible to administer in any other way, especially given that the United Nations had 191 Member States.

18. Turning to the question of the representative of Egypt regarding the interval between the legal opinion of 1981 and the issuance of the bulletin in 2004, he said that family status issues had evolved in many countries in that period. The evolution had included what were referred to as same-sex marriages and domestic partnerships. The Secretary-General had promulgated the bulletin because, in contrast to the situation 10 or more years previously, the evolution of laws in some jurisdictions had reached the point where the guiding principle mentioned in the 1981 opinion must be implemented.

19. The assertion that the bulletin was neutral was based on the neutral principle which the Secretary-General used to interpret rules on family status. The issue, which any lawyers present would recognize, was one of "choice of law". The purpose of the bulletin was not to address the substance of same-sex marriage or domestic partnerships, but rather to state a principle of constant practice followed by all Secretaries-General.

20. Several members of the Committee had asked whether the bulletin had introduced new definitions. In fact it contained none, having been confined to establishing the choice of law used by the Secretary-General in determining family status.

21. The Secretary-General, according to the unofficial transcript of his morning meeting with the press on 16 March 2004, had expressed the view that he had tried to interpret the Organization's rules and regulations fairly, guided by national laws, and would wait to see what the General Assembly decided. That

indicated that he regarded the bulletin as a proper interpretation of the Staff Regulations and Rules, guided by national laws and carried out in the proper context of his authority under the Charter.

22. The Secretary-General had referred to the General Assembly because he was aware that the Fifth Committee was considering the matter, rather than because he believed that the General Assembly should take a decision on it, since he took the view that he had the authority to issue the bulletin. If the Member States decided to overrule the bulletin, it would be a matter for them, but any rumour that the Secretary-General was planning to withdraw it was unfounded.

23. **Mr. Elnaggar** (Egypt) said that the Secretary-General was lucky to have officials who interpreted his conversations with the press. His delegation, meanwhile, thought it more appropriate to examine the Secretary-General's own words.

24. He had listened carefully to the answers of the Office of Legal Affairs and wished to comment on them. Firstly, he wondered if the guiding principle described in the 1981 legal opinion had been brought before the General Assembly. Secondly, while the bulletin had mentioned domestic partnerships, it had not specifically mentioned same-sex marriage. He wished to thank the representative of the Office of Legal Affairs for bringing it directly to the attention of the Committee and opening the way for substantive discussion of what was the true crux of the matter.

25. Thirdly, given that legal evolution was by nature continuous, he asked, hypothetically, what would prevent a staff member from invoking a local law dating from 1989, for example, to claim retroactively an entitlement which the Organization had not recognized until 2004 through what he preferred to regard as the Secretariat bulletin.

26. Finally, since the representative of the Office of Legal Affairs had indicated that the bulletin did not change existing rules and regulations, which must be interpreted in the context adopted by the General Assembly, he wished to know if the bulletin would force a change in the language of Staff Rule 104.10 on family relationships, and specifically paragraph (d), which referred to entitlements.

27. **Mr. Tootoonchian** (Islamic Republic of Iran) requested more information from the representative of the Office of Legal Affairs. He was not a legal expert, but believed that the issue under discussion related to private international law and therefore wondered how it might be possible to resolve the conflict between the criteria in the Staff Regulations and Rules and the criteria set out in the national laws of Member States, for determining effective nationality. He wondered further whether a particular national law could be applied even if to do so jeopardized public order and public decency provisions in other national legal systems.

28. **Mr. Farid** (Saudi Arabia) asked whether the United Nations Staff Union had been consulted prior to the issuance of the Secretary-General's bulletin and how many Member States had laws recognizing domestic partnerships.

29. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, proposed that, since some speakers were now touching on the substance of the issue, the Committee should pursue the matter in informal consultations.

30. **Mr. Roshdy** (Egypt) said that his delegation would prefer to continue in a formal setting since there was a need to have a record of the important issues being raised.

31. Far from ensuring respect for cultural diversity, the Secretariat was seeking to impose a concept that ran counter to the laws and values of many Member States. His Government would find it difficult to explain why Egypt's assessed contributions were being used to further ideas that were unacceptable to Egyptians. Noting that certain countries had defence of marriage acts that prohibited the allocation of Government funds to pay benefits to unmarried partners, he asked whether the Secretariat would use the assessed contributions of those countries for a purpose that contravened their laws. He also wished to know whether staff members who had contracted legally recognized domestic partnerships prior to the issuance of the Secretary-General's bulletin would now be able to sue to receive benefits retroactively and how the Secretariat would resolve cases in which a domestic partnership contracted between two staff members was recognized under the law of the country of nationality of one partner but not the other. Lastly, it would be interesting to know why the Secretary-General had sought the guidance of the General Assembly four years earlier on the issue of survivors' pension entitlements but was now proceeding without it.

32. **Mr. Kramer** (Canada) said that it was not clear to him what the Committee would discuss should it pursue the matter in informal consultations. The issuance of the Secretary-General's bulletin would not give rise to any discernible financial impact on common staff costs. The Secretary-General had the authority to interpret the Staff Regulations and Rules, while the Secretariat was simply continuing to apply national laws. If the Secretary-General had needed the guidance of the General Assembly he would surely have sought it, regardless of his comments to the press. The clarifications provided by the Secretariat had reinforced his conviction that the Secretary-General had acted within his purview. The Committee was mandated to consider administrative and budgetary matters and could add no value to a discussion of social norms. It should therefore conclude its consideration of the matter and move on to other items on the agenda.

33. **Mr. Alarcón** (Costa Rica) said that his country had always supported human rights and believed firmly in the self-determination of peoples with regard to laws, customs and cultural traditions. For those reasons, it supported granting benefits to staff members of the Organization in accordance with the legislation of their Member States of origin. Its support was motivated by a desire to modernize and improve working conditions and to respect the cultural diversity and national legislation of Member States and the concepts which such legislation reflected in their home environment. While its own laws did not contain certain family- and marriage-related concepts which did exist in the laws of other States, Costa Rica had no wish to challenge the laws of those States.

34. Based on the discussions he had heard, he supported the suggestion of the representatives of Canada and the European Union to hold informal consultations rather than continue the formal meeting. Indeed, he wondered if discussion should continue at all, since the business of the Fifth Committee was to consider budgetary implications and the Secretariat had explained that there were none.

35. **Ms. Haji-Ahmed** (Office of Human Resources Management) said that the Staff Union had not been consulted prior to the issuance of the Secretary-General's bulletin. The Secretary-General had been obliged to seek the guidance of the General Assembly on the issue of survivors' pension entitlements, as the United Nations Joint Staff Pension Fund was not under his authority. The budgetary provisions for staff entitlements reflected the Organization's overall long-term expenditure in that area and were not adjusted on the basis of individual cases; that would not be practical since staff members had different entitlements over the course of their careers.

36. **Mr. Rashkow** (Director of the General Legal Division) said that if two staff members contracted a domestic partnership and applied for entitlements, the Secretariat would determine their eligibility by reference to the law of the country of nationality of the staff member submitting the claim. However, no such situation had arisen.

37. **Mr. Farid** (Saudi Arabia) asked whether any staff members had received entitlements pursuant to the Secretary-General's bulletin and, if so, whether they would be expected to return the moneys should the Committee declare the bulletin invalid.

38. **Mr. Tootoonchian** (Islamic Republic of Iran) said that he agreed that the Committee should conclude its consideration of the matter as expeditiously as possible. However, the Secretariat should first answer all the questions raised, which touched on very sensitive issues.

39. **Mr. Roshdy** (Egypt) said that it was still not clear to his delegation whether staff members could now sue the United Nations.

40. **Mr. Alarcón** (Costa Rica) said that the Secretariat had already explained the financial implications of the decision. The Committee was lapsing into a debate on concepts and he must reiterate that his country had absolute respect for cultural diversity. Costa Rica did not recognize polygamy and he would welcome confirmation from the Secretariat as to whether the Organization granted benefits which staff members could choose to allocate to more than one partner or marital partner.

41. He wished to avoid a debate on what constituted a family, a couple or a marriage. In the absence of financial implications there was nothing for the Committee to discuss and it should therefore move to informal discussions or suspend its meeting. The Secretariat should also indicate whether there was any precedent for the Committee approving or rejecting a bulletin of the Secretary-General.

42. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, said that the issue was not whether the Committee could agree on a definition of family

status. By referring to the law of staff members' countries of nationality, the Secretary-General recognized the diversity existing among Member States while remaining neutral on the matter. To question that approach was to question the practice of the past 50 years. The Secretariat had answered all the questions put by delegations and there was nothing more to discuss. The Committee should therefore adjourn the debate.

43. **Ms. Santos-Neves** (Brazil) expressed support for the statement made by the representative of Canada. For her delegation, the authority of the Secretary-General was not in question. The issue under discussion was a choice of law matter and, as such, could not be determined by the Committee. She therefore saw little point in pursuing it in informal consultations.

44. **Mr. Roshdy** (Egypt) said that the United Nations did not grant any additional entitlements to staff members with more than one wife. The issue of polygamy was thus irrelevant. It was regrettable that the representative of Costa Rica had raised it since his comments had betrayed a lack of respect for other cultures. Countries in which domestic partnerships were recognized should not try to impose their values on others; the countries in which polygamy was practised certainly did not. Lastly, he trusted that he would hear no more culturally insensitive comments in the course of the debate.

45. **Mr. Alarcón** (Costa Rica) endorsed the statement made by the representative of Ireland on behalf of the European Union and expressed regret for any offence caused by his previous statements. His intention had been to convey his delegation's views on cultural diversity. Various forms of the family existed, as was recognized in the Plan of Action adopted at the General Assembly's special session on children. Costa Rica's laws did not permit either polygamy or same-sex marriage, but his delegation recognized the right of each Member State to have its laws applied to its nationals. It also welcomed the enhancement of the entitlements of United Nations staff. If members wished to discuss the matter further, they should confine themselves to its financial aspects since the Committee was not the appropriate forum for a debate on the substance.

46. **Ms. Wahab** (Indonesia) said that any issue relating to staff members' entitlements and the use to which Member States' assessed contributions were put was within the Committee's purview. Her Government would find it difficult to explain why a portion of Indonesia's assessment was being used to fund measures that were prohibited by its laws. She agreed with the representative of the Islamic Republic of Iran that the Committee should pursue its consideration of the matter until all the questions raised by delegations had been answered.

47. **Mr. Al-Mansour** (Kuwait) expressed support for the statements made by the representatives of Egypt and the Islamic Republic of Iran. The debate on the issue should continue so long as there were questions pending.

48. **Ms. Buchanan** (New Zealand) said that her Government's views on the matter had been very ably expressed by the representative of Canada at the Committee's 32nd meeting, where he had spoken on behalf of her delegation and that of Australia. Having listened to the clarifications provided by the Secretariat, she was more convinced than ever that the approach taken by the three delegations had been correct and that the issue at stake was the continuing application to staff members of the laws of their countries of nationality. She agreed with previous speakers that the Committee was now entering into a debate that went beyond its purview.

49. **Mr. Hønningstad** (Norway) said that the answers given by the Secretariat had reinforced his delegation's view that the Secretary-General had acted within his authority. As the representative of New Zealand and others had stated, the matter under discussion was not within the Committee's remit, and his delegation therefore saw no reason to pursue it in informal consultations.

50. **Mr. Dutton** (Australia) said that his delegation was fully satisfied that the Secretary-General had acted within his authority and in accordance with the Staff Regulations and Rules and the long-standing principle that the family status of staff members should be determined by applying national laws. Each country had the sovereign right to determine family status within its jurisdiction. The Committee was not the appropriate forum for a substantive debate on the issue. While delegations were entitled to put questions, the Secretariat had already provided comprehensive responses. The matter under discussion did not require a decision by the Committee, and no action had been

requested of it. It would therefore be pointless to proceed to informal consultations.

51. **Mr. Elnaggar** (Egypt) said that his delegation had not intended to initiate a discussion of the substantive issues. It was the Secretariat that had raised those issues, and in a rather blunt manner. His delegation wished to confine itself to the administrative and budgetary implications of the Secretary-General's bulletin, which were within the Committee's purview. The Secretariat had yet to answer many of the questions posed. For example, it was still not clear whether the issuance of the bulletin would necessitate the amendment of staff rule 104.10 and, if that was the case, whether the Secretary-General would consult the General Assembly before promulgating the text of the amendment, as he had in the past. During the press encounter on 16 March 2004, the Secretary-General had said that he had tried to interpret the Staff Regulations and Rules fairly and that he would wait to see what the Assembly decided. His delegation was not certain what was expected of the Assembly. However, it feared that if the Committee remained silent on the matter, that would be interpreted as acceptance of the Secretary-General's interpretation. It would welcome clarification in that regard.

52. **Ms. Astanah Banu** (Malaysia) said that she had difficulty comprehending why the Committee should be taking a decision on a matter that, according to several delegations, was beyond its purview. If the item were in fact beyond the purview of the Committee, she would like to know whether the bulletin should be discussed in a more relevant forum and then brought before the Fifth Committee, if necessary. The Committee should not be taking a decision on a matter that had not been discussed in any other forum within the General Assembly.

53. Furthermore, the matter had already been brought to the General Assembly four years previously and dismissed. The Secretariat, therefore, could not take a decision on it. If the matter was within the purview of the Member States at that time, it was difficult to understand what had changed to remove that authority from them and why it should be subsequently under the Secretary-General's discretion. Such a shift of authority to a single person or group of people was worrisome, because it threatened to erode the democratic decision-making process. Lastly, every Member State must be allowed to take part in decisions on the budget, regardless of the possible financial implications.

54. **Mr. Rahman** (Bangladesh) said that the issue under discussion fell within the purview of the Committee and that the bulletin of the Secretary-General could have financial implications. More clarification was needed on what the representative of the Office of Human Resources Management meant by "discernible", in Part Two of her responses to questions on agenda item 127, when she said there would be no discernible financial impact on common staff costs arising from the Secretary-General's bulletin. If the practice of relying on the national law of staff members to determine marital status was long-standing, it was unclear why such a practice had not been implemented for so many years. Further explanation would also be welcome of why the matter was currently within the purview of the Secretary-General, rather than the General Assembly, as had been the case. Moreover, if the Secretary-General failed to properly interpret the Staff Regulations and Rules, it was imperative that the General Assembly should take up the issue. Finally, comprehensive answers from the Secretariat to all the questions put by the representatives of Iran, Egypt and Indonesia would be welcome.

55. **Mr. Mazumdar** (India) said that the Committee should discuss family status for purposes of United Nations entitlements from a purely budgetary and administrative angle. Some clarification would be welcome from the Secretary of the Committee of whether the Committee had already grappled with the issue during a previous session of the General Assembly and, if so, of the outcome of the debate. With respect to the budgetary implications referred to in the last paragraph of Part Two of the responses of the Office of Human Resources Management, it was unclear whether the financial implications of the bulletin would be met from existing resources.

56. **Mr. Eljy** (Syrian Arab Republic) thanked the Secretariat for its statement on the competitive examination for Arabic interpreters and noted that it had corrected its mistakes with respect to broad distribution of announcements of competitive examinations and vacancies to all missions. He expressed the hope that the Secretariat would continue to abide by its obligation to rectify any errors that it might make and that the pending questions raised by his and other delegations would be answered.

57. **Mr. Abbas** (Pakistan) said that his delegation associated itself with the statements made by the representatives of Egypt, Indonesia, Iran, Malaysia and Saudi Arabia, but did not agree with the explanation given by the Secretariat in Part Two of its responses to questions on agenda item 127, particularly the statement that the position taken in the bulletin was entirely neutral. The Secretary-General's bulletin did have financial implications. The matter therefore fell within the purview of the Committee and further discussion was needed in order to reach a conclusion.

58. **Mr. Tootoonchian** (Islamic Republic of Iran) said that the points raised by the Officer-in-Charge of the Office of Legal Affairs were based on an interpretation of the Staff Regulations and Rules. More clarification was needed on the status of the Secretary-General's bulletin and whether it was intended as an amendment to regulation 12.2 of the Staff Regulations and Rules. It was unclear whether the bulletin would be used to supersede the clear language of the Staff Regulations and Rules on family status, including rules 103.17 (c), 103.21 (b), 104.10 (b) and (d), 107.2 (c), 107.20 (f) and (g), 107.27 (g) and 107.28 (c), among others, which explicitly stated that that status applied to husband and wife. Such a sensitive issue should be decided upon by the Member States themselves.

59. **Mr. Pulido León** (Venezuela) said that Committee attempts to define family status were futile. Such discussions had no place in the Committee. More clarification was needed as to whether the bulletin had budget implications or amended the Staff Regulations and Rules. If it had financial implications, then the Committee should take action. If not, then arrangements should be made to have the item discussed in the appropriate forum.

60. **Mr. Farid** (Saudi Arabia) said that the issue of family status for purposes of United Nations entitlements was a sensitive one which also had financial implications. Saudi national law did not recognize domestic partnerships and his Government could not participate in extending benefits to spouses of nationals of countries that recognized such unions. The Governments of those nationals should pay for such entitlements. The laws of a small number of countries should not be imposed on all Member States. No country could accept that. It would be useful to learn from the Secretariat the percentage of Member States that recognized domestic partnerships. Because the bulletin had financial implications and entailed changes to the Staff Regulations and Rules, the item under discussion was within the purview of the Committee and should be discussed in a formal meeting.

61. **Ms. Haji-Ahmed** (Office of Human Resources Management) said that General Assembly resolution 57/286 dealt with the pension system and that the Regulations of the Pension Fund were not for the Secretary-General to interpret. The Secretary-General's bulletin would not change the text of rule 104.10 (d). Rule 104, with respect to husband and wife and marriage, would be applied in the light of the bulletin. If there were a family relationship in accordance with the bulletin, the entitlements of the two staff members would be modified, as provided for in rule 104.10 (d).

62. The Organization made no value judgements with respect to polygamy. Staff members in polygamous relationships recognized by their national law were entitled to change the status of their beneficiaries without documentation. In the event of the death of the spouse, survivors would receive an equal share of the benefits.

63. Since the issuance of the Secretary-General's bulletin, the Office had processed two cases, both under Dutch law. Two letters had been sent to Permanent Missions and seven cases were under review. Precise data on the number of Member States that recognized domestic partnerships were not available.

64. **Mr. Rashkow** (Director of the General Legal Division) said that the Secretary-General's bulletin did not constitute an amendment to rule 104.10, but was a matter of interpretation of that rule. Entitlements changed over time, but the Staff Rules prevented members from making retroactive claims against the Organization in the light of such changes. Throughout the history of the Organization, changes in entitlements had been forward-looking and reflected developments in national legislation of Member States.

65. **Mr. Sach** (Director of the Programme Planning and Budget Division), referring to his earlier statement that there would be no discernible financial impact on common staff costs arising from the Secretary-General's bulletin, said that the budget was not adjusted for changes in family status of staff members on a case-by-case basis. Changes in family status among the entire staff, such as a change in marital status or in the number of dependent children, had little

long-term effect on common staff costs, which tended to even out over time. The bulletin, which could involve as little change in staff costs as less than 0.1 per cent, would not necessitate any budgetary adjustments.

66. **Mr. Roshdy** (Egypt) said that the Office of Human Resources Management had made it clear that the Secretariat did not make value judgements and that staff members had the right to choose their beneficiaries. The Office had also said that rule 104.10, on family relationships, would be interpreted in the light of the bulletin, which strongly suggested that existing rules and regulations adopted by Member States would be implemented on the basis of administrative decisions.

67. The statement by the Director of the Programme Planning and Budget Division proved that the bulletin would have budget implications, however slight. Similarly, his statement that changes in entitlements would not give staff members the right to sue the Organization was an acknowledgement that the bulletin involved an amendment to the rules rather than an interpretation of them.

68. Lastly, local law in many countries provided for different entitlements for different kinds of unions. The bulletin stated that domestic partnerships and marriages would be treated equally, in accordance with national legislation. Given that domestic partnerships were not always treated equally under domestic law, granting equal entitlements would go beyond the national legislation of some States.

69. **Mr. Alarcón** (Costa Rica) said that the Committee should discuss any item with financial implications, however large or small. His Government, which respected cultural diversity and the national laws and customs of other States, had accepted to contribute to the payment of benefits to the spouses of staff members in polygamous unions, even though Costa Rican law did not recognize such unions.

70. **Mr. Abelian** (Secretary of the Committee) said that the Assembly had discussed the issue in a different context under resolutions 55/224 and 57/286, in connection with a request for a report on survivors' benefits. In resolution 57/286, the Assembly had taken note of the review undertaken by the United Nations Joint Staff Pension Board and had requested the Board to examine the administrative and financial aspects of the matter and to report thereon to the Assembly at its fifty-ninth session. Issues concerning entitlements under the Pension Fund were not for the Secretary-General to decide.

71. *Mr. Pulido León (Venezuela), Vice-Chairman, took the Chair.*

72. **Mr. Kramer** (Canada) said it was clear that the social and cultural issues underlying the discussion were emotive and deeply felt and that was why the Committee should deal with them on the basis of clear organizational principles. To follow a particular practice would be to invite trouble and the principle outlined by the Secretary-General offered the best solution. Saudi Arabia had suggested that Member States should themselves pay for entitlements for staff members living in domestic partnerships. He wondered why that particular type of relationship had been singled out and not other entitlements, such as education grants for adopted children or benefits for children born of polygamous unions. It was important to operate on the basis of clear principles and not pick and choose those relationships in respect of which benefits would be paid.

73. There was no issue with respect to financial implications. Staff members had the right to marry and have children and it was not for the Fifth Committee to pronounce on whether staff were to be allowed to have twins or triplets. If delegations did not like the way in which some countries established their norms, then they should take up the matter bilaterally. He wished to know, lastly, whether the Regulations of the Pension Fund and the Staff Regulations and Rules each had a different status that would allow the Secretary-General to do certain things with the Staff Regulations and Rules that he would be unable to do with the Regulations of the Pension Fund.

74. With regard to the comment by the representative of Egypt that the policies being followed by certain countries were a road to ruin, he wished to state the following.

75. **Mr. Roshdy** (Egypt), speaking on a point of order, said that he had been incorrectly quoted. He had not referred in his earlier statement to Canada, which therefore had no business responding on the matter.

76. *Mr. Kmoníček (Czech Republic) resumed the Chair.*

77. **Mr. Kramer** (Canada) said that each country had the right to pursue its own social policies. The

Secretary-General's proposal best reflected the diversity of the international community.

78. **Ms. Udo** (Nigeria) requested that the Secretary of the Committee clarify the way forward, since he had given the impression that the Committee was awaiting a report that was due to be submitted to the Assembly at its fifty-ninth session. She wondered whether the issue would be on the Assembly's agenda for that session. Her delegation also wished to reiterate its earlier request for a breakdown of the composition of the staff on the basis of major geographical regions.

79. **Mr. Farid** (Saudi Arabia) said that his delegation was not satisfied with the Secretariat's response to its request for a list of those countries that extended legal recognition to domestic partnerships. The Assembly could not allow the practice of a small number of countries to be imposed on the majority.

80. The representative of Canada had referred to entitlements in respect of adopted children, but the Committee was discussing marriage and domestic partnerships. He wished to remind members that marriage between two men could not produce natural-born children. Additional meetings should be scheduled to discuss the issue until consensus was reached.

81. **Mr. Abbas** (Pakistan) said that the anticipated additional expenditure of 0.1 per cent meant that the proposal had clear financial implications and was therefore within the purview of the Fifth Committee. The issue was of a sensitive nature and reflected the religious, social and cultural diversity of global society. The Organization of the Islamic Conference naturally had its own preferences on the matter.

82. **Mr. Roshdy** (Egypt) insisted on having clear answers to all the questions he had asked, including those concerning local laws and whether the bulletin exceeded their scope. The issue must be resolved during the current part of the Assembly's resumed session and more time should be allocated for its discussion.

83. **Mr. Tootoonchian** (Islamic Republic of Iran) said that the Committee could move to informal consultations once replies had been received to questions posed by his delegation.

84. **Mr. Dutton** (Australia) said his delegation was satisfied with the Secretariat's responses. There was nothing before the Committee that required a decision. The only basis on which to organize staff entitlements was respect for the cultural diversity and national practices of the Organization's Members. Further discussion would lead nowhere.

85. **Ms. Astanah Banu** (Malaysia) noted the suggestion by the representative of Canada that the matter of a particular country's social policies should be taken up at the bilateral level. That was not the way in which Malaysia conducted business on matters already within the ambit of the United Nations and therefore multilateral in scope. The Fifth Committee did not become involved only when proposals entailed an increase in the regular budget. Her delegation did not agree, moreover, that discussing the issue would lead to paralysis. Written answers should be provided to the questions asked so that the Committee could move forward on the item.

86. **Mr. Rahman** (Bangladesh) reiterated his earlier request for written answers to all the questions that had been asked before the Committee entered into informal consultations on the matter. In his view, consensus would be possible only if the bulletin was withdrawn.

87. **Mr. Elnaggar** (Egypt) said there was no doubt that the matter was within the Committee's purview and that the Secretary-General himself was of the view that the General Assembly should decide on it. In his remarks to the press, the Secretary-General had said that he would wait to see what the General Assembly would decide. He was surely referring there to the Fifth Committee. It was in that context that the Committee needed to act on the issue.

88. **Mr. Kramer** (Canada) said his delegation wished to reject the comments made by the representative of Malaysia. Canada did not preach bilaterally to others about their social policy, or their entitlements to a particular family configuration. Canada, however, vigorously defended the human rights enshrined in internationally agreed instruments and used all available multilateral instruments in doing so. To frame the issue in terms of human rights showed that the discussion was straying from the budgetary, administrative and financial elements that were within the Committee's remit. It was not clear that any questions had in fact gone unanswered. The Bureau must decide how best to proceed.

89. **Mr. Eljy** (Syrian Arab Republic) said the large number of speakers reflected the importance of the issue before the Committee. He wished to remind the

Committee that his delegation had earlier raised a number of questions, including those concerning the freeze on recruitment to fill posts in the General Service category and the posting of vacancies on the Internet. His delegation was awaiting answers to its questions.

90. **Ms. Astanah Banu** (Malaysia) said that her comments in response to a previous statement by Canada regarding bilateral approaches were meant to be taken in a general and not specific sense.

91. **Ms. Udo** (Nigeria) asked when her delegation could expect answers to the questions it had asked.

92. **The Chairman** said that the Bureau would meet to discuss how best to proceed.

The meeting rose at 1 p.m.

United Nations A/C.5/58/SR.36

General Assembly
Fifty-eighth session

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Fifth Committee

Summary record of the 36th meeting
Held at Headquarters, New York, on Monday, 22 March 2004, at 10 a.m.

Chairman: Mr. Kmoníček ..... (Czech Republic)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Kuznetsov

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04-27963 (E)

The meeting was called to order at 10.05 a.m.

Organization of work

1. **The Chairman** recalled that at the Committee's 35th meeting, held on Friday, 19 March 2004, a number of delegations had requested the Bureau to include in the Committee's programme of work for the first part of the resumed fifty-eighth session of the General Assembly additional meeting time for consideration of agenda item 127, "Human resources management". Following the adjournment of the meeting, the Bureau had met to consider the request but had been unable to agree on a recommendation. It had been decided that, in absence of a recommendation from the Bureau, the Committee should take up the question of the programme of work in a formal meeting. However, the members of the Bureau had informed him that negotiations had continued over the weekend and that they might be able to reach a compromise. He therefore wished to suggest that the meeting should be suspended for approximately 30 minutes.

2. **Mr. Elnaggar** (Egypt) said that his delegation had serious difficulties with the Bureau's working methods. Its failure to agree on a recommendation had disrupted the Committee's work. He wished to recall that the Bureau's function was to draw up the programme of work, not to engage in substantive discussion of the matters before the Committee. If the Bureau could not reach a consensus, the Committee should act in its stead. The Bureau seemed to be creating its own ad hoc rules of procedure. His delegation was not willing to proceed on that basis. The Committee's programme of work should reflect the wishes of the Member States, not of a few individuals.

3. **The Chairman** said that the Bureau had not engaged in any substantive discussion. It had sought only to reach an agreement on a procedure based on which the Committee could move forward with its work. It was not attempting to impose a decision, since it could only make recommendations.

4. **Mr. Bouheddou** (Algeria) said that, as a Vice-Chairman of the Committee, he had attended the Bureau's meeting on Friday, 19 March 2004. He fully understood the concerns raised by the representative of Egypt regarding the Bureau's conduct. In accordance with established procedure, delegations had the right to request that a matter should be pursued in a formal meeting, where they could pose questions to the Secretariat. The Bureau could not set itself up as a censor by granting some requests but refusing others. Nevertheless, at Friday's meeting, the Chairman and the two other Vice-Chairmen had vetoed a formal request made by not one, but several delegations. They must accept responsibility for the disruption of the Committee's work. The Bureau could have recommended a programme of work, which the Committee could then have adopted if it so wished. However, it had chosen not to do so. As a Vice-Chairman of the Committee, he deeply regretted the outcome of the Bureau's meeting.

5. **Mr. Farid** (Saudi Arabia) said that his delegation fully supported the statement made by the representative of Egypt. The Bureau's actions had been neither constructive nor transparent and had created a dangerous precedent. Every Member State had the right to request that additional formal meetings should be scheduled to consider any item on the agenda.

6. **Mr. Elji** (Syrian Arab Republic) said that the Chairman should clarify the Bureau's methods of work and the reasons for the lack of consensus among its members.

7. **Mr. Tootoonchian** (Islamic Republic of Iran) expressed support for the statements made by the representatives of Egypt, Algeria and the Syrian Arab Republic. His delegation, too, wished to know on what basis the Bureau had proceeded. A number of Member States had requested it to allocate additional meeting time for consideration of agenda item 127. Its refusal to accede to that request was a regrettable departure from the Committee's normal working methods. While his delegation did not expect all Member States to support its views on the item, it did expect to have an opportunity to express them. Those concerns notwithstanding, he was grateful for the efforts of the Bureau and those of the Chairman in support of the Committee's work.

8. **The Chairman** said that there was no hidden agenda. The Bureau had simply been unable to reach an agreement at its meeting on Friday. He had not been able to meet with the other members over the weekend. However, he understood that they were now close to achieving a consensus. He therefore wished to suspend the meeting for a few minutes to enable them to pursue their negotiations. He trusted that the Bureau would

then be able to make a recommendation concerning the Committee's programme of work.

9. **Mr. Elnaggar** (Egypt) noted that the Committee had begun the week without a programme of work. It was regrettable that a formal meeting would have to be suspended so that the Bureau could do what it should have done the previous Friday. In future, the Bureau should bear in mind the need for efficient utilization of conference-servicing resources. He concurred with the views of previous speakers concerning the Bureau's working methods. While its members were endorsed by regional groups, they were elected by the entire membership of the Committee. They must therefore be impartial. In particular, they must be able to make recommendations concerning the programme of work without being influenced by their views on the substantive matters to be discussed. In that connection, he noted that it was the General Assembly, not the Bureau, that allocated agenda items to the Committee. The Bureau had failed in its most basic task, which was to facilitate the work of the Committee. His delegation therefore wished to make a formal request for an inquiry to be conducted into the actions of the Bureau.

10. **Ms. Afifi** (Morocco) said that clearly a mistake had been made. However, the Committee would achieve nothing by continuing to discuss it. It was merely wasting precious time and resources. She appealed to all delegations to allow the Chairman to suspend the meeting; Member States could then meet in their regional groups and a solution would perhaps be found. She expressed regret that the spirit of partnership that had prevailed at the main part of the fifty-eighth session had been undermined.

11. **Mr. Al-Ansari** (Qatar), speaking on behalf of the Group of 77 and China, endorsed the call made by the representative of Morocco for the suspension of the meeting.

12. **Mr. Farid** (Saudi Arabia) said that it was not clear to him what the Bureau needed to discuss. The 56 States members of the Organization of the Islamic Conference had requested that additional meeting time should be allocated for consideration of agenda item 127. The Bureau should simply accede to that request. His delegation would agree to the suspension of the meeting but it expected the Bureau to return with a recommendation that consideration of the item should continue.

13. **Mr. Mazumdar** (India) said that the events of Friday had been Kafkaesque. He could not recall any previous instance where the Bureau had failed to schedule a meeting requested by so many delegations. It was not for the Bureau to decide which items the Committee should discuss. Once a Member State had requested the holding of a meeting on a particular item, the Bureau's sole task was to determine when the meeting would take place.

14. **The Chairman** said that that was precisely what the Bureau was trying to do. However, it still needed to agree on a time slot. He wished to reiterate that it was not the Bureau's wish to draw conclusions on any substantive matter, since it had no authority to do so.

15. **Mr. Dutton** (Australia) said that the Bureau had performed well over the session, and its inability to reach a consensus the previous Friday mirrored the deep division within the Committee. There was no point raking over the Bureau's conduct. Delegations should allow the Chairman to suspend the meeting so that the Bureau could make a recommendation on the programme of work as soon as possible.

16. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, expressed support for the suspension of the meeting. She trusted that the Bureau would recommend a balanced programme of work. In that connection, she noted that the funding of the Special Court for Sierra Leone would soon run out; that would lead to the suspension of trials and, ultimately, to the failure of the Court, which would deal a huge blow to the administration of justice in Africa.

17. **Mr. Tootoonchian** (Islamic Republic of Iran) said that his delegation would not object to the suspension of the meeting. However, the Committee must move forward with its work. Many important issues were still outstanding, and the Bureau must ensure that adequate meeting time was allocated for all of them.

18. **Mr. Chaudhry** (Pakistan) expressed dismay that the Committee could not overcome a procedural disagreement. He proposed that the meeting should be suspended so that the matter could be referred to informal consultations.

19. **The Chairman** said that he first wished to consult with the Bureau. If he heard no objection, he would suspend the meeting for a few minutes to enable him to do so.

The meeting was suspended at 10.45 a.m. and resumed at 11.40 a.m.

20. **The Chairman** said that the Bureau recommended that the Committee should hold one additional formal meeting on agenda item 127, "Human resources management", on the morning of Thursday, 25 March 2004. Informal consultations on the item would be held that afternoon and, if necessary, on the morning of Friday, 26 March 2004.

21. **Mr. Abelian** (Secretary of the Committee) read out the proposed programme of work for the remainder of the first part of the resumed session. He noted that the Committee would take up the issue of the Special Court for Sierra Leone at a formal meeting the following morning and in informal consultations to be held immediately afterwards. The Committee was scheduled to complete its work by Wednesday, 31 March 2004.

22. **The Chairman** said he took it that the Committee wished to adopt the proposed programme of work.

23. *It was so decided.*

The meeting rose at 11.45 a.m.

United Nations A/C.5/58/SR.37

General Assembly
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Fifth Committee

Summary record of the 37th meeting
Held at Headquarters, New York, on Tuesday, 23 March 2004, at 10 a.m.

Chairman: Mr. Pulido León (Vice-Chairman) ..... (Venezuela)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Kuznetsov

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Agenda item 121: Proposed programme budget for the biennium 2004-2005 (*continued*)

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In the absence of Mr. Kmoníček (Czech Republic), Mr. Pulido León (Venezuela), Vice-Chairman, took the Chair.

The meeting was called to order at 10.10 a.m.

Agenda item 121: Programme budget for the biennium 2004-2005 (*continued*)

Request for a subvention to the Special Court for Sierra Leone (A/58/733)

1. **Mr. Sach** (Director of the Programme Planning and Budget Division), introducing the report of the Secretary-General containing a request for a subvention to the Special Court for Sierra Leone (A/58/733), said that the report had followed an exchange of letters between the Secretary-General and the President of the Security Council (S/2004/182 and S/2004/183) on the financial difficulties faced by the Special Court with regard to its third year of operations. The report set out the overall level of resources required for the period from 1 July 2004 to 31 December 2005 and contained a request for a subvention of up to $40 million to supplement voluntary contributions, including those that had been pledged but not yet collected, which were considered insufficient to complete the work of the Court.

2. The Court had been established by Security Council resolution 1315 (2000) as an independent Special Court to be funded through voluntary contributions. From the outset, the Secretary-General had maintained that the only realistic solution was for the Court to be financed from assessed contributions. Nevertheless, the Court had been established on the basis of voluntary contributions. To date, some $49 million had been contributed, an amount that would carry the Court through to the end of its second year of operations, on 30 June 2004. For its third year of operations, the Court anticipated a shortfall of approximately $28.2 million.

3. To complete the work of the Court, approximately $30 million was needed for the financial period from 1 July 2004 to 30 June 2005. During the six-month period beginning 1 July 2005, an estimated $10 million would be required in connection with the completion of the mandate of the Court. Of the $40 million being sought, including the funds that had already been appropriated, $16.7 million would be for the period from 1 July to 31 December 2004, to be charged against the provision for special political missions under section 3 (Political affairs) of the programme budget for the biennium 2004-2005.

4. The Secretary-General would report to the General Assembly at the main part of its fifty-ninth session on action required for appropriation of the balance of requirements, of up to $23.3 million, for 2005. The proposals with respect to the subvention reflected the necessity for the Assembly to take account of the independent nature of the Court, which had already indicted 11 persons. For that reason, the proposals before the Committee had been presented as a request for a subvention, which would allow the Court to continue its operations within the independent framework established by the Security Council and reflected in the Agreement between the United Nations and the Government of Sierra Leone.

5. **Mr. Kuznetsov** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) introduced the Advisory Committee's report on the request for a subvention to the Special Court for Sierra Leone (A/58/7/Add.30). The Court had been established on the basis of voluntary contributions and on the understanding that the Secretary-General would not be expected to create any institution for which he did not have adequate funds in hand for at least 12 months and pledges to cover anticipated expenses for a second year of operation. It appeared, however, that available voluntary contributions would carry the Court only to the end of its second year of operations (30 June 2004). Accordingly, the Secretary-General proposed that a subvention of up to $40 million should be made available to the Court, $16.7 million of which would be for the period from 1 July to 31 December 2004.

6. It would be for the General Assembly to decide whether or not a subvention to meet the expenses of the Court should be made from the assessed budget of the Organization. Other considerations, including the impact of a contribution by the membership as a whole on efforts to seek further voluntary contributions, should also be borne in mind.

7. Extreme time constraints had prevented the Advisory Committee from conducting a detailed examination of the estimates. Under the circumstances, should the General Assembly decide to contribute towards the expenses of the Court, the Advisory Committee recommended that commitment authority

should be granted in an amount not exceeding $16.7 million. The authority, if granted, would be administered along the lines spelled out in paragraph 13 of the report of the Secretary-General. The Advisory Committee would provide a detailed recommendation to the Assembly as to the level of financial assistance and options for financing.

8. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, the acceding countries (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia), the associated countries Bulgaria, Romania and Turkey, the stabilization and association process countries (Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro and the former Yugoslav Republic of Macedonia) and, in addition, Liechtenstein and Norway, said that the European Union endorsed the proposal to give commitment authority in the amount of $16.7 million to the Court.

9. The European Union acknowledged the important role that the Special Court was playing within Sierra Leone to bring to justice those most responsible for the atrocities committed in the conflict in that country and its significance to the efforts to fight impunity in the region. The fact that the Court was located in Freetown made it unique among the currently constituted international judicial bodies in that it was based in the country where the crimes had been committed. It was therefore essential for peace and stability within Sierra Leone and the region that it should not be allowed to fail through insufficient funds from the international community. In that respect the European Union supported the Secretary-General's proposal for a one-time ad hoc subvention to cover funding shortfalls in the remainder of 2004 and, if necessary, also in 2005. The case was an exceptional one and the international community should reappraise the whole financing of such international institutions.

10. Experience had shown that accurate forecasting for the United Nations International Criminal Tribunals was a difficult matter. In the future, the international community should secure a sound basis for the financing of international courts before their establishment. While the judicial process could not be fully directed or controlled by administrative oversight bodies, all organs of the Court, within the constraints imposed by the judicial process, should respect the time-limited mandate established by the Security Council and make every effort to complete their work within the three years envisaged and the allocated budget. Given that the proposed subvention had made some contingency provision for possible time overruns of the Court, she hoped that the request for a subvention would be a one-off case. The European Union also concurred with the Secretary-General's view that the fundamental nature of the Court should not be altered. Efforts should therefore continue to secure further voluntary funds and the international community should redouble its efforts to that end.

11. **Ms. Lock** (South Africa), speaking on behalf of the African Group, said that the creation of the Special Court was a practical demonstration of the international community's support for strengthening the administration of justice in Sierra Leone, as a critical part of Sierra Leone's national reconciliation and of the broader peace process. The Special Court's hybrid jurisdiction of international humanitarian law and the relevant national laws of Sierra Leone was a model of justice and a unique effort on the part of the international community to prosecute persons who bore the greatest responsibility for the most serious crimes committed in Sierra Leone.

12. In that respect, the African Group recalled the Secretary-General's own preference for the Special Court to be financed from assessed contributions from Member States to afford it secure and continuous funding. That sentiment had been shared by several Member States. Security Council resolution 1315 (2000), however, had approved a financing mechanism based on voluntary contributions from Member States.

13. The Group had taken note of the current status of voluntary contributions pledged and received. It was concerned that the cash balance of $1.8 million available to the Special Court would be adequate to finance the operations of the Court only up to the end of May 2004, at a time when trial proceedings were set to begin in earnest. That might jeopardize the continuing operations of the Special Court and have a negative impact on the peace process in Sierra Leone. It was therefore imperative to ensure that the proceedings suffered no disruptions, as their successful conclusion would illustrate the African Union's unequivocal stance against impunity and serve as a deterrent to human rights abuses elsewhere. The Committee should therefore take early action on the item.

14. The African Group gave sympathetic consideration to the Secretary-General's request for funding of up to $40 million to supplement the financial resources of the Special Court, which would enable it to complete its mandate by December 2005, without prejudice to its independent character.

15. In that connection, the Group stood ready to discuss the details of the Advisory Committee's recommendation to grant the Secretary-General commitment authority in an amount not exceeding $16.7 million, to be disbursed on an incremental basis.

16. **Mr. Ozawa** (Japan) said that his Government attached great importance to the consolidation of peace in post-conflict Sierra Leone and supported efforts to promote disarmament, demobilization and reintegration, national reconciliation and good governance in the country. Japan had already extended a substantial amount of assistance to Sierra Leone, including a contribution of 960,000 dollars in 1998 to the United Nations Development Programme Trust Fund for Demobilization, Reintegration, Rehabilitation and Recovery in Sierra Leone; 3.09 million dollars in May 2001 to the United Nations Trust Fund for Human Security for the reintegration of ex-combatants; and 300 million yen in December 2002 to promote cooperation between Japan and the United Kingdom in the area of conflict prevention.

17. In view of the importance of prosecuting crimes against humanity committed during the internal conflict and in response to the appeal by the Secretary-General, his Government had also contributed $500,000 to the establishment of the Special Court for Sierra Leone. However, based on the shared recognition by Member States that the International Criminal Tribunals for Rwanda (ICTR) and the Former Yugoslavia (ICTY), which were financed from assessed contributions, had both resulted in substantially higher than expected expenses for Member States and in order to reduce costs and promote greater efficiency, Member States had decided to finance the Special Court through voluntary contributions. His Government regretted the shortfall in voluntary contributions, but was concerned about the impact of a possible subvention on efficiency and further efforts to reduce costs, especially since the completion strategy for the Special Court was still unclear.

18. In view of those considerations and of the steady increase in the size of the regular budget, the failure to set strict priorities among United Nations activities and the possible negative effect that such a subvention might have on many activities funded through voluntary contributions, his Government, as a matter of principle, could not support the idea of a subvention from the regular budget. In order to prevent the Special Court from failing, the Security Council, which was instrumental in its establishment, should play a role in mobilizing the necessary voluntary contributions. Simply put, those countries that were in a position to make certain decisions should assume corresponding responsibilities.

19. Member States that supported the subvention proposal should consider setting a number of conditions. The subvention should be a one-off measure, and every effort should be made to ensure that all funding for 2005 and beyond would be covered by voluntary contributions; the subvention should not constitute a precedent for other cases; a clear completion strategy for the Special Court should be set in place; and the Security Council should monitor the situation and urge its implementation, as necessary.

20. **Mr. Herrera** (Mexico) said that crimes against humanity, war crimes and other serious violations of international humanitarian law must not go unpunished. The Special Court, which had done commendable work for the previous two years, was very important for the reconciliation process in Sierra Leone. His Government had done what it could to contribute to the maintenance of the Court and was concerned at the lack of sufficient funds for its operations after June 2004. It regretted that the Secretary-General's high-level efforts had not resulted in the payment of pledged contributions.

21. Given the importance of the Tribunal's work, his delegation supported the recommendation contained in paragraph 9 of the report of the Advisory Committee. However, all of the resources should come from voluntary contributions. The Secretary-General should continue to work towards that goal and keep the General Assembly informed of his progress.

22. **Mr. Iosifov** (Russian Federation) said that his delegation had noted the information that had been provided to Member States on the activities of the Special Court and on plans to help it to operate effectively in the future. The Court played a vital role in bringing to justice those accused of crimes against

humanity, war crimes and other serious violations of international humanitarian law in Sierra Leone.

23. His delegation was concerned at the Court's precarious financial situation, as article 6 of the Agreement between the United Nations and the Government of Sierra Leone had provided for its expenses to be met from voluntary contributions. The report containing the request for a subvention from the Organization's regular budget had not explained why available voluntary contributions would carry the Court only to the end of its second year of operations. Nor had it explained why the Secretariat's original expectation that voluntary contributions made or pledged should be sufficient for three years of operation had proven to be incorrect or whether alternatives to funding from the regular budget had been investigated when it became clear that the Special Court could not operate with the current low level of voluntary contributions.

24. Efforts to mobilize more voluntary contributions for the Court might stop completely if funding were provided from regular budget funds, thereby setting an unwelcome precedent for the unjustified transfer to Member States of the financial burden for independent international bodies like the Special Court.

25. The report of the Secretary-General, moreover, had not provided enough information, particularly on the Court's completion strategy, to enable the General Assembly to decide whether or not to grant a subvention. Nor had it provided any assurance that no further appeals would be made for regular budget funds for the Special Court. Questions also remained about the functioning of the Court's Registry.

26. The General Assembly had scrutinized and proposed changes to the budgets of ICTR and ICTY in order to save costs and promote completion of their work, but it had not once examined the budget of the Special Court for Sierra Leone. Fuller information on the subject was needed. His delegation was prepared to discuss the item constructively and hope to receive full answers to questions raised.

27. **Ms. Buchanan** (New Zealand), speaking also on behalf of Australia and Canada, said that the Assembly had been asked to provide a subvention to the Court at a critical time. The delegations on whose behalf she spoke were ready to support the Secretary-General's proposal for a subvention because of the Court's vital work, the need to secure its operation and the immediate nature of the request. They took note of the Secretary-General's explanation that it had proven impossible to mobilize enough further voluntary contributions to enable the Court to complete the discharge of its mandate as well as the reiteration by the Security Council of the importance it attached to the purposes of the Special Court and that it had no objection to supplementing voluntary contributions with assessed contributions.

28. The prudent proposal of the Secretary-General and the Advisory Committee to allocate the sums required in two stages would enable Member States to meet the Special Court's immediate financial needs, but also to examine its financial needs for 2005 before releasing the balance of the appropriation. When the Committee reverted to the issue of the Special Court at the Assembly's next session, it should have before it more financial information and a definitive exit and completion strategy for the Special Court. In the meantime, Member States had an immediate obligation to ensure the viability and smooth operation of the Court and the best means to that end was the subvention proposed by the Secretary-General.

29. **Ms. Nakian** (United States of America) said that the United States of America had been a leading proponent of the Special Court and one of the principal financial contributors. The Court had made commendable progress in bringing to justice those who bore the greatest responsibility for the terrible crimes committed in Sierra Leone and was a pillar in consolidating lasting peace and reconciliation in that country. The fact that it was situated in the country in which the conflict had taken place made it even more significant.

30. The Court's work was at risk if sufficient funding was not secured for its third year of operation. His Government had hoped for enough voluntary contributions to sustain it, since without a subvention or significant voluntary contributions, the Court would face insolvency just as trials were about to begin. The international community could not let it fail, because to do so would send a negative message to those struggling to combat the culture of impunity and would undermine respect for human rights and international humanitarian law. The President of Sierra Leone had appealed to the Secretary-General in 2002 to establish the Special Court. Allowing it to close its doors would be a betrayal of the people of that country.

31. The Court had shown that it could work quickly and cost-effectively and remained a good model of an independent, effective and efficient tribunal, having benefited from the lessons of ICTR and ICTY. The United States of America supported the Secretary-General's request for a subvention to bridge the shortfall in voluntary contributions and his position that the subvention should not affect the Court's independence and structure.

32. **Mr. Park** Yoon-june (Republic of Korea) said that his delegation acknowledged the valuable role of the Special Court and hoped that, following the indictment of 11 individuals, trials and appeals would proceed as envisaged in the report of the Secretary-General.

33. The report of the Secretary-General, however, provided no financial information or details of management issues for the first year of the Court's operation. Without a full understanding of the financing and management of the Court, his delegation would find it difficult to accede to the request for a subvention, especially since it believed that the Court had too many staff for the nine persons to be tried. The Secretariat should inform the Committee of the job descriptions of those staff.

34. His delegation was also concerned at the lack of an exit plan. Member States had been told only that the trials and appeals should be completed by December 2005, but did not know the basis for that estimate. Certain factors could prolong the operation of the Court and a fourth or fifth year of operation was possible. It would be useful to know how the Secretariat would arrange financing in such a case.

35. Since the Court had been established on the basis of voluntary funding, changing the mode of financing to regular budget subventions might negatively affect future decisions by Member States to establish international courts. To prevent that, the Committee should seek a solution that could be accommodated within the existing provision for special political missions under section 3 (Political affairs) of the programme budget for the biennium 2004-2005, without creating an extra burden for Member States. Furthermore, the principle of using voluntary contributions to finance the operation of the Court should be upheld and efforts should continue to secure such contributions.

36. **Mr. Obame** (Gabon) recalled that the international community had welcomed the establishment of the Special Court for Sierra Leone as a major step towards the end of impunity for those who violated human rights and international humanitarian law, especially those who had perpetrated atrocities and serious crimes in Sierra Leone during the last 10 years of its deadly civil war. His delegation welcomed the voluntary contributions that had already been made and invited all other partners to come forward and support the Special Court.

37. Since its establishment, the Special Court's difficult financial situation had hindered its work. Taking into account the level of the subvention suggested by the Secretary-General and the views of the Advisory Committee, his delegation advocated a substantial subvention through assessed contributions in order to ensure viable and secure funding that would allow the Special Court to prosecute the perpetrators of heinous crimes against civilians, including children, in Sierra Leone.

38. **Mr. Rowe** (Sierra Leone) said that his delegation wished to add its encouragement for speedy and positive consideration of the matter of the Special Court. Any delay would negatively affect the Court's operations, lengthen its mandate and result in additional expenses. It would also cast a shadow over the objectives and commitment of the international community to deal decisively with ending impunity. Like the struggle against terrorism, the administration of justice was not cheap.

39. The Special Court, as a unique institution in international humanitarian and human rights law, must not be allowed to fail, especially midway through its business. The Court was special for Sierra Leone and special for the international community. It was already operating, so the time was not right to engage in a debate about its financing. His delegation thanked the Advisory Committee for the recommendation contained in paragraph 9 of its report and hoped that the Fifth Committee would respond accordingly.

40. **Ms. Santos-Neves** (Brazil), supported by **Ms. Samayoa-Recari** (Guatemala), welcomed the Special Court's progress and the beginning of the trials process. The Court's activities had reached a crucial stage and must not be jeopardized. She supported the recommendations of the Advisory Committee.

41. **Mr. Alarcón** (Costa Rica) said that the Special Court must have uninterrupted funding to enable it to administer justice in the region. His delegation agreed with the views expressed by the representative of South Africa on behalf of the African Group. Violations of international human rights law around the world must be addressed and the work of the Special Court was therefore of vital importance.

42. Member States that had made voluntary contributions should be commended and the Secretariat should continue to seek further contributions. He hoped that the next report of the Secretary-General would explain the Court's completion strategy.

The meeting rose at 11.05 a.m.